

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

M.H. EBY, INC., :
: Plaintiff, : CIVIL ACTION NO. 19-386
v. :
: Defendant. :
: TIMPTE INDUSTRIES, INC. d/b/a :
: TimpTE, INC., :
:

ORDER

AND NOW, this 19th day of December, 2019, after considering: (1) the counterclaims filed by the defendant, Timpte Industries, Inc. d/b/a Timpte, Inc. (“Timpte”) (Doc. No. 38); (2) the motion to dismiss Timpte’s counterclaims filed by the plaintiff, M.H. Eby Inc. (“M.H. Eby”) (Doc. No. 42); (3) Timpte’s response in opposition to the motion to dismiss (Doc. No. 46); (4) M.H. Eby’s reply brief in support of the motion to dismiss (Doc. No. 51); and for the reasons set forth in the separately filed memorandum opinion, it is hereby **ORDERED** as follows:

1. The motion to dismiss defendant’s counterclaims (Doc. No. 42) is **DENIED** without prejudice to the plaintiff raising its arguments in a motion for summary judgment once a complete factual record has been developed; and
2. M.H. Eby shall have until no later than **January 3, 2020**, to file an answer to the counterclaims.

BY THE COURT:

/s/ *Edward G. Smith*
EDWARD G. SMITH, J.